

REMARKS

Claims 1-15 are pending in the application. Claims 5, 10 and 15 are objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 1-4, 6-9 and 11-14 are rejected under 35 U.S.C. §102(e). Applicants respectfully traverse these rejections for at least the reasons stated in the response having a mailing date of October 21, 2004 and file a Notice of Appeal concurrently herewith.

Applicants amended claims 5, 10 and 15 to be rewritten in independent form including all of the limitations of the base claim and any intervening claims. Consequently, claims 5, 10 and 15 are allowable.

Applicants note that claims 5, 10 and 15 were not amended to overcome prior art but to be written in independent form. Hence, the amendments made to claims 5, 10 and 15 were not narrowing in scope and therefore no prosecution history estoppel arises from the amendments to claims 5, 10 and 15. *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.*, 62 U.S.P.Q.2d 1705, 1711-12 (2002); 56 U.S.P.Q.2d 1865, 1870 (Fed. Cir. 2000). Further, the amendments made to claims 5, 10 and 15 were not made for a substantial reason related to patentability and therefore no prosecution history estoppel arises from such amendments. *See Festo Corp.*, 62 U.S.P.Q.2d 1705 at 1707 (2002); *Warner-Jenkinson Co. v. Hilton Davis Chemical Co.*, 41 U.S.P.Q.2d 1865, 1873 (1997).

CONCLUSION

As a result of the foregoing, it is asserted by Applicants that claims 1-15 in the Application are in condition for allowance, and Applicants respectfully request an allowance of such claims. Applicants respectfully request that the Examiner call Applicants' attorney at the below listed number if the Examiner believes that such a discussion would be helpful in resolving any remaining issues.

Respectfully submitted,

WINSTEAD SECHREST & MINICK P.C.

Attorneys for Applicants

By: 

Kelly K. Kordzik  
Reg. No. 36,571  
Robert A. Voigt, Jr.  
Reg. No. 47,159

P.O. Box 50784  
Dallas, Texas 75201  
(512) 370-2832

Austin\_1\282048\1  
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